



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS AND ELECTRONIC MAIL**

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SEP 17 2018

RE: MUR 6848  
George Demos  
Friends of George Demos and Robert Cole  
in his official capacity as treasurer  
Chrysanthi T. Demos

Dear Messrs. Lenhard and Lawlor:

Based on a complaint filed with the Federal Election Commission (the "Commission"), and information supplied by your clients, the Commission on June 17, 2016, found reason to believe that George Demos violated 52 U.S.C. § 30116(f) and that Friends of George Demos and Robert Cole in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(f), and instituted an investigation in this matter. On July 17, 2018, the Commission found reason to believe that Chrysanthi T. Demos violated 52 U.S.C. § 30116(a)(1)(A), and on the same date, authorized entering into pre-probable cause conciliation with your clients. We engaged in pre-probable conciliation discussions with you but were unable to reach a resolution.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations of the Act have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies, if possible) stating your clients' position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days and may require that your clients toll the running of statute of limitations before granting such an extension.

Additional information gathered by the Commission in the course of its investigation in this matter was previously provided to you at your request. *See* Agency Procedure for Disclosure of Documents and Information in the Enforcement Process, 76 Fed. Reg. 34986 (June 15, 2011).

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In addition, you may also request an oral hearing before the Commission. *See* Procedural Rules for Probable Cause Hearings, 72 Fed. Reg. 64919 (Nov. 19, 2007) and Amendment of Agency Procedures for Probable Cause Hearings, 74 Fed. Reg. 55443 (Oct. 28, 2009). Hearings are voluntary, and no adverse inference will be drawn by the Commission based on a respondent's decision not to request such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues you expect to address. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted. If you request a probable cause hearing, the Commission may request that you toll the statute of limitations in connection with that hearing. *Id.* at 64,920.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement. If we are unable to reach an agreement after 30 days, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty. *See* 52 U.S.C. § 30109(a)(6)(A).

Should you have any questions, please contact Ana Peña-Wallace, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

*Lisa J. Stevenson/KG*

Lisa J. Stevenson  
Acting General Counsel

Enclosure  
Brief

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3  
4 In the Matter of )  
5 )  
6 George Demos ) MUR 6848  
7 Friends of George Demos and Robert Cole )  
8 in his official capacity as treasurer )  
9 Chrysanthy T. Demos )  
10

11 **GENERAL COUNSEL'S BRIEF**

12 **I. STATEMENT OF THE CASE**

13 During the 2014 election cycle, the authorized campaign committee of congressional  
14 candidate George Demos, the Friends of George Demos (the "Committee"), disclosed that  
15 Demos made \$2.5 million in loans to his campaign from his own "personal funds." The Federal  
16 Election Commission (the "Commission") received a Complaint alleging that Demos lacked  
17 sufficient personal assets to make the \$2.5 million in loans with "personal funds."<sup>1</sup> Based on  
18 information provided in that Complaint, including details from a meeting the Complainant held  
19 with Demos, the Commission found reason to believe that George Demos and his authorized  
20 campaign committee violated 52 U.S.C. § 30116(f) by accepting excessive contributions, and  
21 that the Committee violated 52 U.S.C. § 30104(b) by misreporting the source of the loans as  
22 personal funds.<sup>2</sup>

23 The Commission's subsequent investigation revealed that Demos did not have the  
24 personal funds necessary to loan his campaign \$2.5 million and instead used funds belonging to  
25 his wife, Chrysanthy T. Demos. Accordingly, the Commission also found reason to believe that  
26 Chrysanthy Demos violated 52 U.S.C. § 30116(a)(1)(A) by making an excessive contribution to

<sup>1</sup> Compl. (June 25, 2014).

<sup>2</sup> See Factual and Legal Analyses for Committee and Demos, MUR 6848.

1 the Committee.<sup>3</sup> The Office of the General Counsel is now prepared to recommend that the  
2 Commission find probable cause to believe that: (1) Chrysanthy T. Demos violated 52 U.S.C.  
3 § 30116(a)(1)(A) by making excessive contributions; (2) Demos and the Committee violated  
4 52 U.S.C. § 30116(f) by accepting those excessive contributions; and (3) the Committee violated  
5 52 U.S.C. § 30104(b)(A) by inaccurately reporting the source of the \$2.5 million in loans made  
6 to the campaign.

## 7 II. FACTS

8 George Demos was a candidate for the U.S. House of Representatives in the 2014  
9 Republican primary election for New York's 1st Congressional District and designated the  
10 Committee as his authorized committee.<sup>4</sup> He lost the June 24, 2014, primary election.<sup>5</sup>

11 The campaign's primary source of funding was the following four loans that the  
12 Committee reported as loans Demos made from "personal funds:" (1) a \$1,000,000 loan made  
13 on September 27, 2013, and disclosed on its 2013 October Quarterly Report; (2) a \$1,000,000  
14 loan made on December 30, 2013, and disclosed on its 2013 Year-End Report; and (3) two  
15 \$250,000 loans made on June 23, 2014, the day before the primary election, and disclosed on its  
16 2014 July Quarterly Report.<sup>6</sup> After the Committee's initial disclosure of each of the loans, it  
17 continued to disclose them on subsequent reports through its 2015 April Quarterly Report. All of  
18 these reports — the 2013 October Quarterly and Year-End Reports, 2014 April Quarterly, July

<sup>3</sup> See Factual and Legal Analysis for Chrysanthy Demos, MUR 6848.

<sup>4</sup> See Statement of Candidacy (Sept. 25, 2013).

<sup>5</sup> See NYS Board of Elections Representative in Congress Election Returns June 24, 2014, <http://www.elections.ny.gov/NYSBOE/elections/2014/Primary/2014FederalPrimaryResults.pdf>. Demos also ran for the same House seat in 2010 and 2012.

<sup>6</sup> See Committee, 2013 October Quarterly Report (Oct. 3, 2013); 2013 Year-End Report (Jan. 31, 2014); 2014 July Quarterly Report (July 15, 2014).

1 Quarterly, October Quarterly and Year-End Reports, and the 2015 April Quarterly Report —  
2 disclosed the source of the loans as Demos's "personal funds."<sup>7</sup>

3 Early in the campaign, Demos discussed with local Republican Party officials his  
4 intention to finance his campaign with family funds. On December, 14, 2013, Demos met with  
5 Jesus A. Garcia (the Complainant) and Betty Manzella — the Chairman and Vice Chairman of  
6 the Brookhaven Town Republican Committee, respectively — to seek the committee's  
7 endorsement in the 2014 election.<sup>8</sup> Garcia maintains that "Demos brought up the subject of how  
8 he would fund his campaign" and indicated that he would be receiving "up to \$2 million from his  
9 father-in-law to finance his campaign."<sup>9</sup> Manzella recalled that at the same meeting, Demos  
10 mentioned that he had "family money" and that he could bring "millions of dollars to the race"  
11 through his wife's family, but his likely opponent, Lee Zeldin, would not have sufficient funds  
12 for the race.<sup>10</sup> Additionally, Robert Cole, the Committee's treasurer, recalled asking Demos in  
13 September 2013, just before Demos's entry to the race, how much money he intended to put into  
14 it, and Demos responded, "enough to win." According to Cole, during a conversation in

<sup>7</sup> After the April Quarterly Report, the Committee, without explanation, stopped reporting the loans. In 2016, in response to an RFAI inquiring about the Committee's failure to continue reporting the loans, Demos informed the Commission's Reports Analysis Division that he had forgiven the \$2.5 million in loans he made to the Committee. See Friends of George Demos, Miscellaneous Report to FEC (Apr. 27, 2016) (responding to Request for Additional Information); see also Request for Additional Information (Mar. 17, 2016) (notifying Committee that it omitted a loan on its reports that had been disclosed on previous reports, and stating that Commission regulations required continuous reporting of outstanding loans).

<sup>8</sup> See Jesus Garcia Aff. ¶¶ 3-5 (June 23, 2017) and Betty Manzella Aff. ¶¶ 3-7 (June 23, 2017). The meeting took place at the Committee's offices. *Id.*

<sup>9</sup> Garcia Aff. ¶ 7.

<sup>10</sup> Manzella Aff. ¶ 9-11. According to Garcia, he filed the Complaint after seeing "through newspaper articles and commercials that Demos was spending significant funds on advertising," which indicated to him that Demos's campaign may have received those "millions" he said he would be getting from his father-in-law. Garcia Aff. ¶¶ 10-12.

1 December 2013, he and Demos again discussed how much money the campaign needed, and  
2 Demos indicated that the amount he could provide would be based on his and his wife's finances.  
3 Consistent with Demos's statements to the local party officials, Respondents  
4 acknowledge that the four loans Demos made to his campaign were funded from a Citibank  
5 account held jointly by Demos and his wife.<sup>11</sup> In sworn declarations, Chrysanthy and George  
6 Demos assert that the funds used for Demos's campaign loans "came from assets that were in our  
7 joint account" before Demos declared his candidacy.<sup>12</sup> The Demoses, however, opened the joint  
8 checking account on August 27, 2013, only weeks before George Demos declared his candidacy  
9 in the 2014 election.<sup>13</sup> And bank records show that the bulk of the funds in the joint account  
10 came from a \$3 million transfer that Ms. Demos made on September 6 from her own individually  
11 held investment account at Bank of the West.<sup>14</sup> Following her September 6 deposit, Ms. Demos  
12 began making recurring monthly \$20,000 deposits into the joint account using funds from her

<sup>11</sup> Ltr. from Robert Lenhard, at 2 and Attach. (Citibank Records) (Nov. 21, 2016); Ltr. from Robert Lenhard at 1-2 (Mar. 24, 2017). The remaining high-value assets listed on Demos's House Disclosure Statements also belonged to his wife individually. *See* 2013 and 2014 House Disclosure Statements.

<sup>12</sup> Chrysanthy Demos Decl. ¶ 2 (Sept. 1, 2016); George Demos Decl. ¶ 4 (Sept. 1, 2016).

<sup>13</sup> It appears that before August 2013, the Demoses managed their finances using separate bank accounts. Respondents explain that they decided to open the joint account in August 2013, about a month after their first child was born. *See* Ltr. from Robert Lenhard at 2 (Mar. 24, 2017).

<sup>14</sup> *See* Ltr. from Robert Lenhard at 2 and Citibank Records at MUR6848 – 00001 (Nov. 21, 2016). Between August 27 and September 5, 2013, the Demoses made four other deposits into the joint account of \$1,000; \$1,616.04; \$8,000; and \$20,000. Citibank Records at MUR6848-00001 – 00002. September 6, 2013 was the same day that the Commission approved termination of Demos's 2012 committee. Termination Approval Ltr. (Sept. 6, 2013).

1 Bank of the West account.<sup>15</sup> In total, between August 27, 2013, and July 1, 2014,<sup>16</sup> \$3,217,112  
2 was deposited into the joint account, including the \$3 million transfer.<sup>17</sup> Demos states that he  
3 and his wife "treated the funds placed into the joint account, including the \$3 million transfer, as  
4 assets available for individual or joint expenses."<sup>18</sup> The facts, however, reveal that most (\$2.5  
5 million of \$3,217,112) of the funds Ms. Demos deposited in the joint account from its opening in  
6 late August 2013 to late June 2014 (when Demos lost the primary election) went directly to  
7 benefit Demos's campaign, as shown in the chart below.<sup>19</sup>

<sup>15</sup> See Ltr. from Robert Lenhard at 2 and Citibank Records at MUR6848-0002 – MUR6848-00033 (Nov. 21, 2016); Ltr. from Robert Lenhard at 2 (Mar. 24, 2017). From August 2013 through July 1, 2014, those recurring deposits totaled \$180,000. Bank records indicate that smaller amounts were deposited into the joint account, but on an irregular basis. Those smaller deposits totaled \$39,228.38. See E-mail from Derek Lawlor (Mar. 29, 2017, 5:29 PM EST), Attach. (Citibank Records) at MUR6848-00062 – MUR6848-00076. The Respondents acknowledge that Ms. Demos used funds from her individual account with Bank of the West to fund the \$3 million transfer and to make the \$20,000 monthly deposits into the joint account. See Ltr. from Robert Lenhard at 2 (Nov. 21, 2016); Ltr. from Robert Lenhard at 2 (Mar. 24, 2017). Respondents do not specify the source of the funds used for the other smaller deposits made into the account. Because those deposits appear to have been made through ATMs or at bank branch locations, and not through wire transfers, the bank statements also do not reveal the source of those smaller deposits.

<sup>16</sup> We included July 2014 in our review of Demos's financial records even though the last candidate loan was issued on June 23, 2014, because the last loan check did not post to the joint bank account until July 1, 2014.

<sup>17</sup> This amount includes earned interest but excludes the \$1 million transfer that Demos transferred back and forth between the joint bank account and his individual money market account. See *infra* note 19.

<sup>18</sup> See Ltr. from Robert Lenhard at 3 (Mar. 24, 2017).

<sup>19</sup> The remaining activity from the joint account consisted of smaller withdrawals or debits ranging from a few dollars to \$39,000 for personal and family expenses. *Id.* at 2 (stating that joint account was used for "shared income and expenses before and after Mr. Demos became a candidate"). Many expenses paid from the joint account were for amounts under \$100, and only four exceeded \$10,000. Demos also transferred \$1 million from the joint account to his individual money market account on November 5, 2013, and transferred it back into the joint account on December 30, 2013. See Ltr. from Robert Lenhard at 2 and Attach. (Citibank Records) MUR6848-00010, 00020 (Nov. 21, 2016) (explaining that the transfer was an attempt to maximize earnings at a higher interest rate).

1

Date of Loan to Committee From Joint Account	Amount of Loan
9/27/13	\$1,000,000
12/30/13	\$1,000,000
6/23/14	\$250,000
6/23/14	\$250,000
Total	\$2,500,000

2

Demos's own salary and individually held assets during and prior to this time were

3

minimal. According to his House Disclosure Statements covering the relevant time period,

4

Demos's last earned income was in 2011.<sup>20</sup> Demos held two individual accounts with Citibank

5

and two with HSBC Bank before and during the 2014 election cycle,<sup>21</sup> but there was little

<sup>20</sup> Demos filed Financial Disclosure Statements for the 2014 election cycle listing no employment or earned income for himself. *See* George Demos, 2013 Financial Disclosure Statement (Dec. 2, 2013) ("2013 House Disclosure Statement"), [http://clerk.house.gov/public\\_disc/financial-pdfs/2013/8213601.pdf](http://clerk.house.gov/public_disc/financial-pdfs/2013/8213601.pdf); George Demos, 2014 Financial Disclosure Statement (July 11, 2014) ("2014 House Disclosure Statement"), [http://clerk.house.gov/public\\_disc/financial-pdfs/2014/8216007.pdf](http://clerk.house.gov/public_disc/financial-pdfs/2014/8216007.pdf). Demos also listed no salary for 2012 and a salary of \$99,712 for 2011 in an earlier financial disclosure report. *See* George Demos, 2012 Financial Disclosure Statement (Oct. 25, 2012) ("2012 House Disclosure Statement"), [http://clerk.house.gov/public\\_disc/financial-pdfs/2012/8209315.pdf](http://clerk.house.gov/public_disc/financial-pdfs/2012/8209315.pdf). Before that, from 2002 through 2009, Demos worked as an Enforcement Attorney for the Securities and Exchange Commission. *See* Resp. at 2; Meet George Demos: A Biography, GEORGE DEMOS FOR CONGRESS WEBSITE, [http://www.georgedemosforcongress.com/refresh/templates/meet\\_george.php?id=5](http://www.georgedemosforcongress.com/refresh/templates/meet_george.php?id=5).

<sup>21</sup> Demos's House Disclosure Statements listed no individually held accounts and disclosed two joint bank accounts, one with Citibank and one with HSBC. The statements disclosed a balance that ranged from \$1 million to \$5 million for the Citibank account, and from \$1 million and \$5 million for the HSBC account. *See* 2013 and 2014 House Disclosure Statements at Schedule III (Assets and "Unearned" Income). During the investigation, however, Respondents identified only one joint bank account — the Citibank account — and clarified that the HSBC Bank account belonged to the candidate individually and only held a balance ranging between \$1,001 and \$15,000, rather than the \$1 million to \$5 million disclosed to the House. Additionally, contrary to Demos's 2014 House Disclosure Statement, the Citibank joint account had a value ranging from only \$500,001 to \$1,000,000 during 2014, and not from \$1 million to \$5 million. *See* E-mail from Robert Lenhard (May 22, 2017, 11:21 AM EST) (stating that financial disclosure forms erroneously reported status of HSBC account as a joint account); E-mail from Robert Lenhard attaching Letter to Clerk of the House dated May 30, 2017 (June 1, 2017, 7:57 PM EST). On May 30, 2017, Demos submitted a letter amendment to the House Clerk correcting the balance ranges, but did not explicitly state that the amendment also included a correction regarding the ownership information for the HSBC account. E-mail from Robert Lenhard attaching Letter to Clerk of the House dated May 30, 2017 (June 1, 2017, 7:57 PM EST).



1 activity in any of the accounts, and with one brief exception, the total balances in the accounts  
2 never exceeded \$31,000 during the 2014 election cycle.<sup>22</sup>

3 Within the same week that the Demoses opened the joint checking account and Ms.  
4 Demos funded the account with the \$3 million transfer, Demos was taking additional steps to  
5 prepare for his candidacy in the 2014 election. On September 1, Demos's authorized committee  
6 from his 2012 campaign requested termination.<sup>23</sup> The Commission granted the termination on  
7 September 6 (the same day that Ms. Demos made the \$3 million deposit into the joint checking  
8 account).<sup>24</sup> And on September 25, only 19 days after Ms. Demos transferred the \$3 million into  
9 the joint account, Demos filed his Statement of Candidacy for the 2014 election, and the Friends  
10 of George Demos filed its Statement of Organization.<sup>25</sup> The first of the four loans to the  
11 Committee, in the amount of \$1,000,000, was made two days later.

### 12 III. LEGAL ANALYSIS

#### 13 A. There is Probable Cause to Believe that Chrysanthy Demos made, and 14 George Demos and the Committee Accepted, Excessive Contributions in 15 Violation of the Act 16

17 The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no  
18 person shall make contributions to any federal candidate and his or her authorized political

<sup>22</sup> The aggregate balance from Demos's HSBC accounts was just under \$2,300 every month for that time period. See Ltr. from Robert Lenhard (May 19, 2017) at Attach. (HSBC records), MUR6848-00140-00160. His individual accounts with Citibank carried an aggregate balance ranging from \$16,304 to \$28,240, with the exception of two months in the fall of 2013 when Demos transferred \$1 million from the joint account into his individually held money market account. *Id.* at Attach (Citibank Records), MUR6848-00088-00137.

<sup>23</sup> See George Demos for Congress 2012, Termination Rpt. (Sept. 1, 2013).

<sup>24</sup> See Termination Approval Ltr. (Sept. 6, 2013).

<sup>25</sup> See Statement of Candidacy (Sept. 25, 2013) and Statement of Organization (Sept. 25, 2013).

1 committee aggregating in excess of the contribution limit designated for each election cycle,<sup>26</sup>  
2 which was \$2,600 for the 2014 election cycle.<sup>27</sup> The Act further provides that no candidate or  
3 candidate committee shall knowingly accept excessive contributions.<sup>28</sup>

4 The Act's contribution limits also apply to family members, including spouses. In  
5 *Buckley v. Valeo*, the United States Supreme Court stated that Congress may subject a  
6 candidate's family members to the Act's contribution limits.<sup>29</sup> The Court cited to the legislative  
7 history of the Act, stating:

8 It is the intent of the conferees that members of the immediate family of any  
9 candidate shall be subject to the contribution limitations established by this  
10 legislation. ... The immediate family member would be permitted merely to make  
11 contributions to the candidate in amounts not greater than \$1,000 for each election  
12 involved.<sup>30</sup>

13  
14 The Court added, "[a]lthough the risk of improper influence is somewhat diminished in the case  
15 of large contributions from immediate family members, we cannot say that the danger is  
16 sufficiently reduced to bar Congress from subjecting family members to the same limitations as  
17 nonfamily contributors."<sup>31</sup> In numerous past cases, the Commission has conciliated with

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<sup>26</sup> 52 U.S.C. § 30116(a)(1), (c). The term "contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i).

<sup>27</sup> See 11 C.F.R. §§ 110.1(b)(1)(i), 110.17(b).

<sup>28</sup> 52 U.S.C. § 30116(f).

<sup>29</sup> 424 U.S. 1, 53 n.59 (1976).

<sup>30</sup> *Id.* at 52 n.57 (citing to S. Conf. Rep. No. 93-1237, p. 58 (1974), U.S. Code Cong. & Admin. News 1974, p. 5627).

<sup>31</sup> *Id.* at 53 n.59.

1 respondents where spouses or other family members made excessive contributions to the  
2 candidate's campaign.<sup>32</sup>

3 Federal candidates may make unlimited contributions from their own "personal funds" to  
4 their authorized campaign committees.<sup>33</sup> The Act and Commission regulations provide that  
5 "personal funds" are (a) amounts derived from any asset that, under applicable State law, at the  
6 time the individual became a candidate, the candidate had legal right of access to or control over,  
7 and with respect to which the candidate had legal and rightful title or an equitable interest; and  
8 (b) income received during the current election cycle of the candidate, including a salary and  
9 other earned income from bona fide employment; dividends and proceeds from the sale of the  
10 candidate's stocks or other investments; and gifts of a personal nature that had been customarily  
11 received by the candidate prior to the beginning of the election cycle.<sup>34</sup> When a candidate uses  
12 "personal funds" derived from assets that are jointly owned with his spouse, the amount is  
13 limited to "the candidate's share of the asset under the instrument of conveyance or ownership;"

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<sup>32</sup> See, e.g., MUR 6860 (Land) (conciliation with candidate's spouse); MUR 6417 (Huffman) (conciliation with candidate's spouse); MUR 5348 (Condon) (conciliation with candidate's father); MURs 5334, 5341, and 5524 (O'Grady) (conciliation with candidate's spouse); and MUR 5138 (Ferguson) (conciliation with candidate's parents).

<sup>33</sup> 11 C.F.R. § 110.10.

<sup>34</sup> 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a), (b).

1 "if the instrument is silent, the Commission will presume that the candidate holds a one-half  
2 ownership interest."<sup>35</sup>

3 Here, though the funds used to make the \$2.5 million in loans to the Committee were  
4 withdrawn from an account held jointly by the Demoses, the funds were not Demos's "personal  
5 funds" under the Act because the record shows that they originated from his wife's individually  
6 held investment account, and were placed into the couple's joint account for the purpose of  
7 funding Demos's campaign. First, Demos had no significant salary or assets of his own, and he  
8 explained to local party officials that he intended to fund his campaign with "family money."<sup>36</sup>  
9 Second, the Demoses opened the joint checking account only weeks before Demos declared his  
10 candidacy. Prior to that time, the Demoses (who had been married for over a year at the time  
11 they opened the joint account) apparently managed their finances using separate bank accounts.<sup>37</sup>  
12 Third, bank records confirm that Ms. Demos provided almost all of the funds deposited into the  
13 joint account from her individual investment account at Bank of the West — an account whose  
14 contents would not fall within the definition of the "personal funds" of Demos. Fourth, though  
15 the Demoses assert that the joint account was available for individual or joint expenses, most of

<sup>35</sup> 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c). Whether disbursements are made from a joint bank account is not dispositive. New York law, which applies in this matter, states that the assets held in a joint account are treated as a joint tenancy in which an individual's deposit is a gift of one-half interest in the deposited funds to the other account holder. *See* N.Y. Banking Law § 675 (stating that deposits "shall become the property of such persons as joint tenants"). However, despite a rebuttable presumption that the funds belong to both account holders, and that the parties are "entitled to equal shares," in ruling on disputes between account holders, New York courts have considered, among other factors, the source of the funds in the joint account. *See* N.Y. Banking Law § 675(b); *see, e.g., Phillips v. Phillips*, 70 A.D.2d 30, 38 (1979) (finding the one-half interest rule was rebutted and held that one spouse was not entitled to any of the funds in the joint account where only one of the spouses had contributed money to the account).

<sup>36</sup> *Manzella Aff.* ¶ 9-11. At the time he made this statement, he had already used the joint account to make the first \$1,000,000 loan to his campaign. He made a second \$1,000,000 loan from the joint account approximately two weeks later.

<sup>37</sup> *See* Ltr. from Robert Lenhard at 2 (Mar. 24, 2017) (Respondents explain that they decided to open the joint account in August 2013, about a month after their first child was born).

1 the funds in the joint account during the relevant time period (*i.e.*, \$2.5 million of approximately  
2 \$3.2 million in total deposits) were used to fund Demos's campaign. Finally, all of this financial  
3 groundwork occurred as Demos was taking other administrative steps to prepare for his 2014  
4 candidacy. On September 1, his authorized campaign committee from his prior 2012 candidacy  
5 filed a termination report with the Commission. Six days later, the Commission approved that  
6 termination and Ms. Demos, on that same day, made the \$3 million transfer to the joint account.  
7 These facts, taken together, support the conclusion that Chrysanthy Demos transferred money  
8 from her individually held account and into the joint account specifically for the purpose of  
9 funding Demos's campaign for federal office. Under these circumstances, the fact that the  
10 disbursements themselves originated from a joint bank account is not dispositive,<sup>38</sup> and the funds  
11 were not the "personal funds" of Demos. Therefore, the amount used to fund the loans — \$2.5  
12 million — constituted a contribution from Ms. Demos.

13 Because Chrysanthy Demos made no other contributions to the Committee, she was  
14 entitled to contribute \$2,600 to her husband's primary election campaign. Therefore, Ms. Demos  
15 made an excessive contribution in the amount of \$2,497,400. Accordingly, there is probable  
16 cause to believe that Chrysanthy T. Demos made an excessive contribution and that George  
17 Demos and the Committee knowingly accepted excessive contributions, in violation of 52 U.S.C.  
18 § 30116(a)(1)(A) and (f).

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<sup>38</sup> Although Demos had access to all of the funds in the joint account at the time he became a candidate, he may not have held a legal right to the entire amount in the account under New York law. *See supra* note 35. Furthermore, even if the Commission concluded that Demos held an interest in half of the joint account, the loans would still have resulted in an excessive contribution from Mrs. Demos.

**B. There is Probable Cause to Believe that the Committee Failed to Report a \$2.5 Million Contribution from Ms. Demos**

The Act requires committee treasurers to file reports of receipts and disbursements.<sup>39</sup>

These reports must include, *inter alia*, the identification of each person who makes a contribution or contributions that have an aggregate amount or value in excess of \$200 during an election cycle, in the case of an authorized committee of a federal candidate, together with the date and amount of any such contribution.<sup>40</sup>

Here, the Committee misreported the \$2.5 million in receipts as candidate loans in disclosure reports it filed with the Commission from October 3, 2013, through April 12, 2015, instead of disclosing those funds as contributions from Ms. Demos.<sup>41</sup> Because the funds used to make the \$2.5 million in loans to his campaign were not Demos's "personal funds" but rather belonged to his spouse, the Committee should have identified Ms. Demos as the source of those funds. Therefore, there is probable cause to believe that the Committee violated 52 U.S.C. § 30104(b) by failing to accurately disclose the contributions from Ms. Demos.<sup>42</sup>

**IV. CONCLUSION**

Based on the foregoing, the Office of the General Counsel is prepared to recommend that there is probable cause to believe that Chrysanthi T. Demos violated 52 U.S.C. § 30116(a)(1)(A); that George Demos and Friends of George Demos and Robert Cole in his

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<sup>39</sup> 52 U.S.C. § 30104(b).

<sup>40</sup> *Id.* § 30104(b)(3)(A).

<sup>41</sup> See Friends of George Demos, 2013 October Quarterly and Year-End Reports, 2014 April Quarterly, July Quarterly, October Quarterly and Year-End Reports, and 2015 April Quarterly Report.

<sup>42</sup> See Factual and Legal Analysis for Committee, MUR 6848.

official capacity as treasurer violated 52 U.S.C. § 30116(f); and that Friends of George Demos  
and Robert Cole in his official capacity as treasurer violated 52 U.S.C. § 30104(b).

9/17/18  
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